

P. Williams



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: N.F.E., Inc.
File: B-241460
Date: December 21, 1990

Steven J. Gibson for the protester.
Alton E. Woods, Esq., Department of the Interior, for the agency.
Paula A. Williams, Esq., and John F. Mitchell, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest that agency should have evaluated bids on an item basis and made award to the low bidder for each item is denied since the IFB does not contain the multiple awards clause which would permit the agency to make award on that basis.

DECISION

N.F.E., Inc. protests the award of a contract to ASV, Inc., under invitation for bids (IFB) No. FWS3-90-IFB-69, issued by the Fish and Wildlife Service (FWS), Department of the Interior, for the acquisition of two all terrain vehicles equipped with fire pumps, tanks, and trailers. The protester alleges that the agency should have split the award between it and ASV rather than award a single contract to ASV.

We deny the protest.

The requirements were described in the Commerce Business Daily (CBD) notice announcing the procurement as "All Terrain Vehicles, two (2) each, dual rubber track, equipped with fire pump, tank, and trailer." (Emphasis added.) The IFB as issued on August 17, 1990, included a bid schedule which described the requirement as: line item 1, all terrain vehicle; line item 2, all terrain vehicle trailer; and line item 3, fire pumper and tank. Each line item provided for a unit price which was to be multiplied by 2 (the specified quantity for each line item) to establish the total price for each line item. The solicitation also contained a clause requiring the submission of descriptive literature.

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Four bids were opened on September 20. Three firms submitted bids for all three line items whereas N.F.E. submitted a bid for only line item 3. FWS evaluated the bids by adding the total price for each line item to arrive at an aggregate bid price for each firm. Under this formula, Snow Craft Industries was evaluated as the low bidder for all line items but the contracting officer rejected Snow Craft's bid because it offered nonconforming equipment. Because N.F.E. did not submit a bid for all three line items, its bid was also rejected as nonresponsive.^{1/} FWS awarded a single contract to ASV, the next low aggregate bidder.

N.F.E. challenges the agency's decision to make a single award for this requirement on the grounds that the IFB did not require submission of all or none bids nor require bidders to furnish a single total price for all line items. Therefore, N.F.E. asserts, the agency was required to evaluate bids on an item basis and make award to the low bidder for each item. On this basis, the protester seeks a partial award based on its low price for line item 3 (fire pumper and tank).

FWS responds that the IFB as issued does not permit evaluation of bids on an item basis. The agency states that the multiple awards clause, Federal Acquisition Regulation (FAR) § 52.214-22 (FAC 84-56), was not included in the solicitation since it was the intent of the agency to procure the vehicles as a single delivered item because it does not have the facilities and personnel to integrate the various accessories if they were furnished as individual items. This is consistent with the manner in which the procurement was synopsized in the CBD.

The agency's evaluation of bids and subsequent award to ASV was proper. Contracting agencies must evaluate bids in accordance with the evaluation provisions of the IFB; an agency's failure to do so can result in an improper award. See Adrian Supply Co.--Recon., 66 Comp. Gen. 367 (1987), 87-1 CPD ¶ 357. The FAR requires contracting agencies to insert the multiple awards clause in an IFB if the contracting officer determines that multiple awards may be economically advantageous to the government. FAR § 14.201-7(q) (FAC 84-53). Here, no such determination was made by the contracting officer; consequently, the IFB did not include the provision allowing for evaluation of bids for purposes of making

^{1/} In its report on the protest, the agency also identified N.F.E.'s failure to furnish descriptive literature with its bid as a basis to reject N.F.E.'s bid. Thus, even if N.F.E.'s bid were otherwise responsive, the bid was properly rejected on this basis. ATS Cases, Inc., B-235690, Sept. 1, 1989, 89-2 CPD ¶ 210.

multiple awards. Since N.F.E. did not bid on all line items,
the firm's bid could not be considered for award.

The protest is denied.

for Robert P. Murphy
James F. Hinchman
General Counsel